



DECISION NOTICE AND FINDING OF NO SIGNIFICANT IMPACT
for
South Branch Kinzua Creek Project
USDA-Forest Service
Allegheny National Forest
Marienville Ranger District,
Wetmore and Hamlin Townships, McKean County, Pennsylvania

I. Background

The South Branch Kinzua Creek (SBKC) project area includes of 4,748 acres of National Forest System (NFS) lands and 26 acres of private land and is located on the Marienville Ranger District of the Allegheny National Forest (ANF) in northwestern Pennsylvania. The project is bounded on the east by a large parcel of private land located on the western side of U.S. Route 6, on the north by South Branch Kinzua Creek, on the west by a parcel of private land and State Route 321, and on the south by a large parcel of private land located to the north and northwest of Kane, Pennsylvania.

The primary purpose of the SBKC project is to accomplish resource objectives to meet the overall management goals as established in the ANF Land and Resource Management Plan (LRMP or Forest Plan).

The purpose of my decision on this action is to implement Forest Plan direction while addressing site-specific needs and opportunities at the project level. The following summary of needs was listed on pages 4 and 5 of the environmental assessment (EA):

- **Manage Vegetation for Current Forest Plan Desired Condition**
- **Improve Terrestrial Habitat**
- **Market Wood Based Products for Local Economies**

II. Decision and Rationale

I have reviewed the SBKC EA, supporting information in the project file, and public comments and fully understand the environmental effects disclosed therein. After careful consideration of the analysis, applicable laws, the Forest Plan, and public comments, it is my decision to implement Alternative 3, as described on pages 23-25 of the EA, including all design features listed in Chapter 2 of the EA, with the following modifications:

- Drop the herbicide application in Stand 812007.
- Drop Fencing as a reforestation treatment in the following stands in MA 2.2: 813002, 813007, 813009, 813039, 813046, 813047, 814020, 814084, 814069
- Add the following Design Features:
 - *For those stands where slash must be pulled back 50 feet from the edge of FR 186, Brush Disposal (piling/burning slash or removing slash from the site) may be used to treat the slash.*

Stand 814084 is proposed for RUMFC/Group Selection and a small portion of this stand is also overlain by a well-vegetated landslide feature. The following guideline (found on page 72 of the LRMP) applies to this stand:

Soils Susceptible to Landslides (GIS file: colluvial_slides) – Heavy equipment use on slopes greater than 15 percent with soils susceptible to mass movement when loaded, excavated, or wet should occur when soils are dry. During periods of freeze-thaw and for one to multiple days following significant rainfall events, these activities should involve mitigation measures to prevent landslides. If the risk of landslides during these periods of concern cannot be mitigated, then activities should be prohibited.

To further clarify the operating activities within this stand, the following design feature will be implemented:

- *Heavy equipment use within stand 814084 on slopes greater than 15 percent with soils susceptible to mass movement when loaded, excavated, or wet should occur when soils are dry. Heavy equipment use will be prohibited during those times when soil conditions meeting the above-criteria are determined to be unsuitable for this activity.*

This decision includes:

- Silvicultural treatments: 717 acres of even-aged regeneration treatments, 564 acres of even-aged intermediate treatments, 558 acres of uneven-aged treatments, and 549 acres of non-commercial treatments.
- Reforestation activities: 750 acres of site preparation, 824 acres of herbicide application, 562 acres of fence installation, 96 acres of fertilization, 73 acres of tree shelter installation, 191 acres of tree planting (reforestation), and 610 acres of release.
- Wildlife habitat enhancement activities: 108 acres of tree/shrub planting, 93 acres of fence installation, 14 nest box structure installations, 25 acres of fruit tree pruning, and 16 acres of herbaceous opening maintenance (seeding, disking, liming, and fertilizer application).
- Non-native invasive plant species control: 15 acres of non-native plant species control.
- Soil and water restoration activities: rehabilitate and barricade three illegal all-terrain vehicle trails, and ¼ acre of tree and shrub planting adjacent to Hubert Run.
- Transportation activities: 2.2 acres of road construction on existing corridors, 2.1 miles of road decommissioning, 14.4 miles of road maintenance, 0.7 mile of limestone surfacing, expansion of three stone pits (6 acres), development of one new stone pit (3 acres), 16 acres of stone pit reclamation, and placement of five road barricade devices. I have reviewed the SBKC EA, supporting information in the project file, and public comments and fully understand the environmental effects disclosed therein. After careful consideration of the analysis, applicable laws, the Forest Plan, and public comments, it is my decision to implement Alternative 3, as described on pages 23-25 of the EA, including all design features listed in Chapter 2 of the EA.

I have chosen to implement Alternative 3 for the following reasons:

1. Alternative 3, with its associated design features, can be implemented in an environmentally sound manner without significant environmental effects (EA, all sections and Project File), while best meeting the purpose and need for action in the project area (EA, pp. 3-5).
2. Alternative 3 best addresses the significant issues identified prior to and during the Public Scoping Period.
 - Alternative 3 has no road construction on new corridors. Although the amount of such construction proposed in Alternative 2 seemed small by comparison (0.1 mile), the location of this construction required a stream crossing that presented numerous challenges. Water quality in this stream was enhanced in a previous project through the decommissioning and rehabilitation of a Forest Service road that ran parallel to the west bank of the stream. However, recent harvesting activities on private land at the head of this stream have presented a new source of sediment, and the cumulative effects of adding the crossing proposed in Alternative 2 would have been unacceptable in this instance.
 - Alternative 3 takes particular care to protect the Wilderness Trout Stream characteristics of South Branch Kinzua Creek, and the high quality-cold water fish characteristics of the three perennial tributaries to SBKC that fall within the project boundaries – Hubert Run, Glad Run and Watermill Run. The closest any commercial timber harvest comes to South Branch Kinzua Creek is approximately 300 feet. This is unit 813002, an uneven-aged treatment (RUMFC). The State of Pennsylvania requires only a 100 foot buffer for the Wilderness Trout Stream designation. This is also true of the three named tributaries. Only one road, the collector Forest Road 186, comes within 1,000 feet of the SB Kinzua Creek. FR 186 crosses Glad Run and SB Kinzua Creek, and both crossings will be improved with limestone surfacing to reduce existing impacts to these two streams. There are no other Forest Service road crossings on any of the four listed streams, nor are any crossings of any kind planned. Concern about all of these streams was brought to my attention early in the development process for this project by local sportsmen. The design of this project was intended to take these concerns into account. Additional concerns were raised during the public comment period. To verify that the layout and design features of this project do adequately protect the desired character of these streams, I consulted with the Pennsylvania Fish and Boat Commission (PFBC). The selected alternative provides protections well beyond those normally required by PFBC to maintain the high water quality for these stream designations. I am confident that Alternative 3 meets the Purpose and Need for this action while protecting the outstanding qualities of South Branch Kinzua Creek, Hubert Run, Glad Run and Watermill Run
 - Alternative 3 provides fewer acres of uneven-aged treatments than Alternative 2, but a higher proportion of the total commercial treatments are uneven-aged. In Alternative 3, all but one of the uneven-aged treatments are in MA 2.2. Conversely, all of the commercial treatments in MA 2.2 are uneven-aged. Alternative 2 had proposed 96 acres of even-aged AMFC treatments in MA 2.2.

- Alternative 3 better disperses treatments across the project area than Alternative 2. There are no stands or grouping of stands in Alternative 3 that exceed the 40 acre limit for even-aged regeneration harvests; and, where there are groupings of stands with like treatments, these are typically thinnings or uneven-aged harvest where activities are scattered throughout the stands. Alternative 3 lists 717 acres of even-aged treatments, but there are really only 488 acres that actually receive treatment – 229 acres are treated in both the first (seed cut) and second (overstory removal) entries. Similarly, of the 558 acres listed with uneven-aged treatments, only 283 acres actually receive treatment – 275 acres are treated in both the first (single tree selection) and second (group selection) entries.

The total commercial treatments in Alternative 3 result in entries to 1,335 National Forest acres (488 ac. of receiving even-aged regeneration treatments, 564 ac. receiving intermediate even-aged treatments, and 283 ac. receiving uneven-aged treatments). These represent 28 % of the National Forest acres in the project area.

If non-commercial treatments are included (549 ac. of crop tree release or management, which complete previous treatments), this percentage increases to 40% of National Forest acres in the project area.

3. Management activities will comply with all applicable Forest Plan Standards and Guidelines. Design features have been specified to protect resources and are included in Chapter 2 of the EA. My decision also includes changes and additions to the design features that incorporate public comments, including:

- While fencing is planned for 562 acres, the stands that actually have fencing installed will be significantly less. Management of the deer herd has been successful in reducing average densities to at or near the Forest Plan goal across much of the Allegheny National Forest. However, deer density and the impacts from deer browsing may be considerably more or less than the average in any one location. To allow for site specific impacts of deer browsing, I am keeping fencing as an option where originally planned (unless noted otherwise). Monitoring of regeneration and deer browse will determine whether fencing is actually needed. In recent years on the Marienville District, we have installed fencing, on average, on less than 25% of those stands for which it was originally planned. My expectation is that the South Branch Kinzua Creek project will see a similar percentage, or less.
- I have dropped fencing from certain MA 2.2 stands receiving the RUMFC treatment. I believe the design feature for fencing and herbicide in MA 2.2 (EA, page 27) adequately establishes the sideboards for when and how to use these tools. However, as we begin to initiate the more widespread use of the RUMFC treatment in MA 2.2, I am reluctant to use fencing in the more interior MA 2.2 stands listed for treatment in this project. Installation and maintenance of fencing typically involves the use of ATVs, and I would prefer at this time to limit motorized entry to these stands to commercial treatments and those reforestation treatments that are necessary. I have dropped fencing from 124 acres of RUMFC and delayed group

selection in MA 2.2 and I have allowed fencing to remain as an option for 114 acres of RUMFC treatments that are adjacent to open Forest Service roads.

4. I have dropped the herbicide application in Stand 812007 because this stand is adjacent to South Branch Kinzua Creek, and the proposed treatment is in a wetland. This treatment will plant conifer in small gaps and openings that are scattered within or adjacent to the wetlands that form the flood plain of the creek in this stand. This stand is one of four approved in this decision for planting of conifers as a hedge against a potential infestation of the hemlock wooly adelgid, which has recently been discovered to have infected trees in nearby Cameron County. The herbicide treatment is an acceptable tool in the other three stands, if it is needed.
5. Development of reserved and outstanding oil and gas rights continues within the project area. We recently received a proposal to drill a new oil well in or near Stand 813038, and we are aware of a future proposal to add wells to a recent development along FR 448A. This development is within the scope of the cumulative effects analysis, and we will continue to negotiate with the subsurface owners to mitigate and manage the surface impacts of this development. The stone pit expansion and development included in this decision is intended to provide surfacing for the Forest Service road construction (existing corridor) and maintenance that is also included in this decision. Excess material from the pit expansion and development included in this decision can be made available for OGM development within the project area. If a subsurface owner seeks expansion of an existing stone pit or development of a new stone pit within the project area, beyond what is authorized in this decision, to provide material for an oil and gas project, this will be analyzed in a separate NEPA document.

III. Other Alternatives Considered

In addition to the selected alternative, I considered two other alternatives in detail. A comparison of these alternatives can be found in the EA on pages 30-32. Eleven other alternatives were considered but eliminated from detailed study as described on pages 28-29 of the EA.

Alternative 1: No Action. Under this alternative, none of the proposed timber harvesting, regeneration activities, wildlife habitat enhancement activities, soil and water rehabilitation activities, non-native invasive plant species control activities, or transportation activities would occur in the SBKC project area at this time. This alternative was not selected because it would not meet the purpose and need for action, would not promote forest regeneration, and would not promote early successional habitat (other than by natural disturbance).

Alternative 2: This alternative would contribute to the stated purpose and need for action by completing regeneration sequences in stands proposed for treatment. This would create 311 acres of early-successional habitat over the next decade. This alternative would enhance horizontal and vertical diversity throughout the project area through proposed overstory vegetation management, associated reforestation treatments, and wildlife habitat improvements. Reforestation treatments would control competing vegetation long enough to allow tree seedlings to become established, restoring species diversity to the understory. It would also provide high

quality hardwood timber through even-aged management, thus providing wood to meet people's demand for wood products and contributing to the economic vitality of local communities. Approximately 7.7 MMbf of timber would be harvested under this alternative. The expansion of four existing pits and developing one new pit, road maintenance activities, road decommissioning, road construction, limestone surfacing, and the installation of gates would occur under this alternative.

Non-native invasive plant species treatments, soil and water rehabilitation activities, and various wildlife habitat enhancement activities are proposed under this alternative.

Road management classifications would become 21 percent open, 61 percent restricted, and 18 percent closed within the project area. Road density in the project area would be 2.2 miles of forest road per square mile. The reasons for not selecting this alternative can be found above in Section II.

IV. Public Involvement

The following public involvement activities were completed:

1. The project was listed in ANF Schedule of Proposed Actions (SOPA) beginning in July, 2006. This publication is posted quarterly on the ANF website.
2. An information gathering letter was sent to 87 adjacent landowners and interested parties on September 6, 2006.
3. A form was sent to 197 interested parties and adjacent landowners on September 21, 2006. The purpose of the form was to determine which members of the public would like to stay informed of the project and if they would like to receive updates on project status and/or copies of project documents.
4. A discussion and presentation of initial project proposals for the SBKC project area was held with members of the Kane Fish and Game Club on September 28, 2006.
5. The **SBKC Public Comment Package** was sent to 15 interested parties and the cover letter for the SBKC Public Comment Package was sent to 3 interested parties on November 9, 2006.
6. The ANF notified the public of the 30-day public comment period in a letter dated November 9, 2006.
7. A news release announcing the initiation of the SBKC 30-day comment period was sent to local newspapers on November 13, 2006.
8. An email notifying interested parties of the availability of the SBKC Public Comment Package on the Allegheny National Forest website was sent out on November 13, 2006.
9. A legal notice for comments was published in *The Kane Republican* on November 13, 2006 announcing the opening of the 30-day notice and comment period on the SBKC Public Comment Package.
10. The 30-day comment period for this project ended on December 13, 2006. One hundred twenty nine (129) responses were received via regular mail, facsimile, and e-mail during the comment period. Those comments, as well as the responses to those comments, are contained in Appendix A of the EA.
11. The **SBKC Environmental Assessment** was sent to 15 interested parties on October 22, 2007.

12. The ANF notified the public of the 30-day public comment period in a letter dated October 22, 2007.
13. A news release announcing the initiation of the SBKC 30-day comment period was sent to local newspapers on October 26, 2007.
14. An email notifying interested parties of the availability of the SBKC EA on the Allegheny National Forest website was sent out on October 26, 2007.
15. A legal notice for comments was published in *The Kane Republican* on October 25, 2007 announcing the opening of the 30-day notice and comment period on the SBKC EA.
16. The 30-day comment period for this project ended on November 26, 2007. Fifty (50) responses were received via regular mail and e-mail during the comment period. Those comments, as well as the responses to those comments, are contained in Appendix B of the EA.

V. Finding of No Significant Impact

I have determined that these actions will not significantly affect the quality of the human environment. Therefore, an environmental impact statement is not needed. This determination is based on the effects analysis documented in the SBKC Project EA and project file and considers the following factors listed in 40 CFR 1508.27:

(a) Context – Based on the large size of the Allegheny National Forest, and the comparatively small percentage of the area proposed for timber harvesting (0.4 percent of the ANF), wildlife habitat enhancements, NNIS control, soil and water rehabilitation activities, and transportation activities in this project, the site-specific actions of Alternative 3, both short- and long-term, are not significant.

(b) Intensity - I base my finding on the following intensity factors:

1. **Beneficial and adverse effects** – Both beneficial and adverse effects have been considered in the analysis. Benefits of this project were not used to offset adverse impacts, and adverse impacts of this project are not significant even when separated from benefits (EA Chapter 4, pp. 81-156).
2. **Public health and safety** – Implementation of this project will not cause any significant effects to public health and safety (EA pp. 154-156).
3. **Unique characteristics of the geographic area** – No parklands, floodplains, prime farmlands, wild and scenic rivers, or ecologically critical areas will be adversely affected by implementing Alternative 3 as these features are not present near or affected by the project. There will be no significant effects on unique characteristics of the area. The environmental consequences to the physical and biological environments are disclosed in Chapter 4 of the EA.
4. **Controversy** – Based on public participation, the effects on the quality of the human environment are not likely to be highly controversial (EA, all sections). Controversy is described as a dispute amongst the scientific community. Based on that definition, there is no substantial dispute among the scientific community as to the size, nature, or effects of implementing Alternative 3 on the various biological and physical environments.

5. **Uncertainty, unique or unknown risks** - We have considerable experience with the types of activities to be implemented. The effects analysis shows the effects are not uncertain and do not involve unique or unknown risks (EA pp. 81-156).
6. **Precedence** – This proposal does not establish a precedent for future actions with significant effects or represent a decision in principle about future management consideration. Implementing Alternative 3 is within the scope of the Forest Plan and associated supporting environmental documentation (EA p. 2).
7. **Cumulative impacts** – Effects of past, present, and reasonably foreseeable land uses and activities along with the effects of Alternative 3 were considered in reaching my conclusion. The effects of implementing the selected alternative do not individually, nor with other activities taken cumulatively within the areas affected, reach a level of significance (EA Chapter 4, pp. 81-156).
8. **Cultural and historic resources** – The project area has been inventoried for heritage resources. There are no known significant effects to heritage resources anticipated with implementation of Alternative 3. If additional heritage resources are discovered during implementation, appropriate design feature will be implemented (EA p. 26).
9. **Threatened and Endangered species and their habitat** – There is no designated critical habitat for any Federally Threatened or Endangered species on the ANF. The Forest Service found that the selected alternative would have ‘no effect’ to the threatened small whorled pogonia, or the endangered northeast bulrush, clubshell mussel and northern riffleshell mussel. The Forest Service also found that the selected alternative ‘may affect, not likely to adversely affect’ the endangered Indiana Bat. Because the proposed activities and the effects of those activities on T&E species are within the scope of those analyzed in the FEIS for the Forest Plan, standards and guidelines to protect T&E species are consistent with those in the FEIS for the Forest Plan. In addition, the effects analysis has considered the most recent revision of the Regional Foresters Sensitive Species list. The selected alternative will not result in a trend toward Federal listing or a loss of viability for any Regional Foresters Sensitive Species or other species of local concern (EA pp. 128-130), the Biological Assessment, and Biological Evaluation.
10. **Federal, State, or local law or requirements** - The selected alternative conforms to all applicable Federal, State, and local laws and requirements (EA, all sections).

VI. Findings Required by Other Laws and Regulations

On December 22, 2004 the Under Secretary of Agriculture approved regulations for National Forest System land management planning (36 CFR 219, published in the Federal Register on January 5, 2005). These regulations became known as the 2005 Planning Rule. On March 30, 2007 the court in *Citizens for Better Forestry v. USDA Civ. No. 05-1144 and Defenders of Wildlife v. Johanns Civ. No. 04-4512*, in the Northern District of California, enjoined the Forest Service from implementation and utilization of the 2005 Planning Rule. On July 3, 2007 the same court refused to amend its prior judgment and affirmed that the March 30, 2007 order applied nationwide. The result of these two rulings is that the entire Forest Service is currently operating under the prior planning rule, adopted in November 2000 at 36CFR 219 and subsequently interpreted in an Interpretative Rule at 69 Fed. Reg. 58055 (September 29, 2004). This project is planned under the regulation at 36CFR 219.35 (2000) and the Interpretative Rule

of September 29, 2004. As required by 36 CFR 219.35, I have considered the best available science in making this decision. The project record demonstrates a thorough review of relevant scientific information, consideration of responsible opposing views, and the acknowledgment of incomplete or unavailable information, scientific uncertainty, and risk. Please refer to the reference sections of the EA, Appendix B - Response to Public Comments, and specialist reports in the project file for additional verification of the use of best available science.

I find that all of the actions included in the selected alternative are consistent with direction in the Allegheny National Forest Land and Resource Management Plan. The project is in full compliance with the Endangered Species Act, the Clean Air Act, the Clean Water Act, and the National Historic Preservation Act. All actions meet National Forest Management Act requirements as detailed in 16 USC 1600 et. seq.

VII. Implementation Date

Implementation of this decision is subject to the regulations in 36 CFR 215.9. If no appeal is filed, implementation may occur on, but not before, 5 business days from the close of the appeal filing period. If an appeal is filed, implementation may occur on, but not before, 15 business days following the date of appeal disposition. In the case of multiple appeals on this decision, the date of the last appeal disposition controls the implementation date.

VIII. Administrative Review or Appeal Opportunity

This decision is subject to appeal pursuant to 36 CFR 215.11. Appeals must meet content requirements of 36 CFR 215.14. An appeal, including attachments, must be filed (regular mail, fax, hand-delivery, express delivery, or messenger service) with the appropriate Appeal Deciding Officer (36 CFR 215.8) within 45 days following the date of publication of the legal notice. Written appeals shall be sent to:

Leanne Marten, Appeal Deciding Officer
Attn: Appeals & Litigation
USDA-Forest Service, Eastern Region
626 E. Wisconsin Avenue
Milwaukee, WI 53202

Appeals may be faxed to (414) 944-3963, ATTN: Appeal Deciding Officer, USDA Forest Service, Eastern Regional Office. Normal business hours (for hand-delivered appeals) are 7:30 a.m. - 4:00 p.m., Monday-Friday. Electronic appeals should be directed to appeals-eastern-regional-office@fs.fed.us. Electronic appeals should be in TXT, RTF, DOC, PDF or other Microsoft Office-compatible formats.

The publication date of the legal notice in the newspaper of record (*The Kane Republican*, Kane, Pennsylvania) is the exclusive means for calculating the time to file an appeal (36 CFR 215.15(a)) and those wishing to appeal should not rely upon dates or timeframe information provided by any other source.

It is the responsibility of interested parties to respond to this notice within the established time period. No means of communication is perfect. Please contact Dan Tollini, SBKC Project team

leader, at 814-927-6628 if a document is not available or delivered at the expected time, to ascertain its availability, and, if necessary, arrange an alternate delivery method.

IX. Responsible Official and Contact Information

The Responsible Official is:

Robert T. Fallon, District Ranger
Marienville Ranger District
Allegheny National Forest
HC 2 Box 130
Marienville, PA 16239

Questions regarding this Decision Notice and FONSI should be directed to the Responsible Official or Kevin Treese, District NEPA Coordinator, at (814) 927-5759. This document is also listed on the Allegheny National Forest website at

http://www.fs.fed.us/r9/forests/allegheny/projects/vegetative_management

/S/ ROBERT T. FALLON
ROBERT T. FALLON
District Ranger

February 7, 2008
Date